

Before the

**Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

)

)

Expanding the Economic and Innovation
Opportunities of Spectrum Through Incentive
Auctions

)

)

)

Docket No. 12-268

To: Federal Communications Commission

From: Anonymous United States Citizen

**Re: Public Comment in Response to Notice of Proposed Rulemaking Docket No:
12-268**

Date: November 27, 2012

Dear Ms. Williams:

I am writing to express my personal approval of the Federal Communication Commission's Proposed Regulation – Expanding the Economic Innovation Opportunities of Spectrum Through Incentive Auctions; however, I do have some concerns and comments regarding the proposed rulemaking. Before I discuss the substantive points of my comment, I would like to thank the Commission for reviewing and considering my comment in preparation of the final rulemaking. I believe this proposed rulemaking calls us to weigh the demand of the market in tandem with public interest. Undoubtedly, there has been an increased demand in spectrum over the past decade since the Commission has last considered spectrum holdings in such great expanse. Yet, we must also consider the necessity of broadcast television for purposes such as education, public safety, and for providing local news and entertainment programming. In this comment, I will discuss the necessity of spectrum allocation due to market demands, the necessity of broadcasting, and suggest ways to balance the two aforementioned objectives. My comment is focused on policy implications of the proposed rulemaking; I will not focus my attention much on the technical aspects of this proposed rulemaking.

I. The Proposed Rule

The proposed rule has the purpose of reallocating television spectrum for mobile broadband use. The proposed rulemaking is anticipated to have the effect of initiating a spark in the U.S. economy because the mobile industry and mobile application development and sales generate money filtering through the economy. The Commission describes the incentive auctions taking place in three parts.

First, there will be a voluntary relinquishment of partial or all broadcast rights of current licensees. Then, during the second phase of the auction, there will be a repacking period where the spectrum will be reallocated for broadcast and broadband use. Finally, during the third part of the auction process, a forward auction will take place. During this final phase, at least two bidders must make a bid on the available reallocated spectrum and make use for mobile broadband.

II. Why Spectrum Reallocation is Necessary

a. Looming spectrum crunch

I commend that the FCC, under the leadership of Chairman Genachowski, has focused its attention on broadband and telecommunications development. Without such integral steps in the advancement of the telecommunications industry, we may not have been the first country to offer 4G LTE technology to our consumers, generate billions of dollars in our economy in the telecommunications industry, and see growth in broadband beyond metropolitans to our rural centers. While I believe these developments are laudable, these developments have begun to place a strain on our broadband spectrum which calls for attention and consideration.

The reallocation of spectrum is necessary for the following reasons: it is anticipated to have a positive impact on the U.S. economy; it helps to avoid a looming spectrum crunch; it meets market demands; it helps to guarantee that spectrum is used to its fullest potential.

The FCC has heeded the warning of mobile broadband providers and experts in issuing this notice of proposed rulemaking which warns of potential issues regarding the ability of mobile broadband providers being able to meet the market demands and a looming spectrum crunch.

It is common knowledge that Americans have become increasingly reliant on their smart phones and tablets which have put the greatest demand on mobile broadband. According to a statistic provided by the Commission in issuing this proposed rulemaking, smartphones compared to the traditional voice based cell phone uses 35 times more spectrum and tablets use 121 times more spectrum than tradition cell phones.¹ This shift from voice to data has indisputably had a great impact on the mobile industry and the allocation of spectrum, which is why I believe that these proposed auctions are imperative to the meet market demands.

In addition to market demand, I also think it is important to remind the Commission of the positive impact mobile technology has on the United States economy. I agree with the FCC's position that this proposed rulemaking will encourage more growth in the telecommunications industry. I believe this is particularly important considering the current state of the U.S.

¹ Federal Communications Commission. (2012). FCC Launches First-In-World Incentive Auction to Repurpose Broadcast Television Spectrum For Mobile Broadband; Auction Set to Unleash Wave of Economic and Innovative Opportunities for U.S. [Press Release]. Retrieved from http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0928/DOC-316527A1.pdf.

economy. As the Commission may recall, it was the encouragement of internet growth, expansion, and innovation under the Clinton Administration that created economic prosperity for the United States. I also believe that advancements in the mobile market may impact our economy in the same way, but possibly on a smaller scale. To support this proposition, I call the Commission's attention to this statistic: today, compared to just three years ago in 2009, the mobile applications (just a narrow sector of the mobile telecommunications industry) barely existed – yet, today the apps economy supports approximately 500,000 jobs. On a whole, the wireless industry contributes \$150 billion to the U.S. Gross Product annually. For these reasons, I strongly urge the FCC to encourage reallocation of spectrum for further development of the mobile broadband industry through the proposed regulation.

b. Auctions Approved by Congress

The incentive auction process was first introduced as part of the National Broadband Plan.² Congress then gave the FCC the authority to implement the auctions under Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, otherwise known as the Spectrum Act.³ The Spectrum Act authorizes the Commission to conduct the auctions, but it limits the amount of transparency that the auctions may have.⁴ As currently written, I believe the restrictions on transparency throughout the auction process may hinder public interest and public trust in the auction process because the public will be unaware of which broadcast resources they will lose until those rights have already been relinquished and reallocated for mobile broadband use.

One of my greatest concerns with the proposed rule is that it gives broadcast licensees, at their discretion, the right to relinquish their rights without considering the public impact and repercussions their actions or inactions may have without public notification of the loss of sources relied upon by an increasing number of Americans. I urge the Commission to take all reasonable steps necessary to act as liberally as lawfully possible in its reporting measures

² See Federal Register, NPRM Docket No. 12-268, §2. (“*The National Broadband Plan works to free up spectrum for wireless broadband use through traditional approaches such as auctions, including clearing and reallocating the government spectrum. The FCC has pursued other initiatives designed to facilitate the expansion of our nation’s wireless networks, the improvement of wireless broadband service, and the inclusion of all Americans in the growing wireless broadband environment. These efforts include the Broadband Acceleration Initiative to expand the reach of robust, affordable broadband by easing and expediting access to utility poles, rights of way, and other infrastructure; the modernization and refocusing of the Universal Service Fund and the intercarrier compensation systems to make affordable broadband available to all Americans and accelerate the transition from circuit-switched to IP networks; and establishment of the Mobility Fund to finance the expansion of current-generation or better wireless broadband service into currently unserved areas*”).

³ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402, 6403, 125 Stat. 156 (2012) (Spectrum Act).

⁴ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §6403 (a)(3). (*requiring the Commission to “take all reasonable steps necessary to protect the confidentiality of Commission - held data of a licensee participating in the reverse auction. . . including withholding the identity of such licensee until the [spectrum]reassignments and reallocations (if any). . . became effective. . . as described in subsection (f)(2)).*

because liberal reporting is necessary to create transparency, and transparency is required to instill trust in a new system of reallocation.

III. Why Broadcast Television is Necessary

a. Sole Reliance on Broadcast Television

The FCC must remember that part of the American viewing public relies solely on broadcast television. According to a Nielsen Company statistic, 10.7 million television households which is approximately 10% of the total population relies solely on broadcast television service. However, other organizations report that 30 million Americans rely exclusively on broadcast television. Even relying on the 10% statistic, although it may be a minority, 78% of Americans report that on a “typical- day” they get their news from local broadcasting stations. Likewise, the three major broadcast networks nationwide evening newscasts draw 22 million – more than any other form of media. No matter what the most accurate statistics record are, to deny any American access to free over the air broadcasting would be a disservice to the public interest which would greatly outweigh the benefits for mobile broadband so in considering the auction process, it is imperative that policymakers consider these statistics.

b. Importance of Broadcast Industry in Economy

In considering this rulemaking, I also believe the Commission should look at the number of Americans that are employed by broadcast television stations and consider the effects of these incentive auctions may have on people who may possibly lose their jobs when broadcast rights are relinquished for mobile broadband use. It is reported that approximately 211,000 Americans are employed by broadcasting stations by the 30, 855 broadcast stations across the country.⁵ Although this rulemaking is projected to create jobs, my concern is that the individuals displaced from their broadcasting positions will not be qualified to move into the mobile telecommunications positions that will be created. With a decreased number of stations to apply their talents and skills, there will be an unknown number of people unemployed with skills that may not be useful elsewhere.

c. Education

As the incentive auction policies are promulgated, I think it is important to consider the impact broadcast television has on education from youth to students in our universities and everyone in between. As the auction process commences, it is the Commission’s duty to protect the special interest of education as related to broadcast television. The Commission must pay special attention to the role broadcast television plays in education whether it be in educating our youth, our adults, or telecommunications students in our nation’s universities. As the Commission promulgates this regulation, I ask the Commission and all policymakers to recall

⁵ Legislative Priorities, 112th Congress. Washington, D.C.: National Association of Broadcasters. 2011, Print.

their childhood for just a moment and consider the lessons learned on free over the air broadcast stations – particularly, our public broadcasting stations. I ask you to recall the academic and social lessons taught there and how these broadcast stations have influenced the American public for decades.

As a personal advocate for public broadcasting, I think the Commission also should consider the effects incentive auctions may have on not only youth educational programming, but also adult educational programming. In my opinion, I do not foresee many public broadcasting stations relinquishing rights because public broadcasting has such a strong commitment to their cause, but I do fear that some stations may relinquish their rights because these stations may be struggling financially.

When conducting incentive auctions, especially during the reverse auction period, I urge the Commission to pay particular attention to the number of community, school district, and university broadcasting rights that are being relinquished, especially in the instance of university broadcasting rights. The Commission should be wary of these schools giving up these rights as a “quick-fix” to their budgets which are ever being depleted by state funding cuts. I believe that before the auctions ever take place, a plan needs to be implemented where the educational broadcasting spectrum is analyzed to give the agency the best idea of whether it would be good public policy to allow these educational institutions to relinquish these rights for monetary gain in exchange for capital demand of spectrum used for mobile broadband.

By stating this concern, I am not suggesting that universities should never relinquish their rights, but I think analysis of usage of these stations should be done to determine which broadcast stations are actually being utilized. If it is found that some of these stations are not being utilized, I would suggest that once analysis is done and the repacking process takes place. I would suggest that if necessary, then it may be possible for the education stations may be used by multiple educational institutions in order to ensure that the spectrum is being utilized for educational purposes. I believe reallocation is essential to meet market demands, but I also believe the Commission must consider the educational benefits of these broadcast stations.

d. News Programming

Throughout the auction process, the Commission must consider the role free over-the-air broadcast television plays in the role of providing the public with news programming. Free over-the-air broadcasting serves the public on the local and national levels as well as provides a unique public service purpose during national and natural disaster emergencies. During the reverse auction period of the proposed rule, it is imperative that the sheer number of Americans that rely on broadcast news be considered as well as the special function these broadcasting stations play in informing their viewing public.

i. Local Broadcast Television News

On a typical day, 78% of Americans rely on local broadcast television to provide them with news programming.⁶ This number exceeds the alternative resources such as newspapers, radio, and internet – combined.⁷ Because so many Americans rely on the source for this purpose, the Commission should consider the importance of competition amongst local broadcasting for the good of the public.

Just as there must be competition amongst mobile broadband providers, local broadcasters should be in a competitive position since competition will help better serve the public. By providing multiple outlets in each market, there is greater opportunity for exposure to varying viewpoints and competition amongst the broadcasting stations to provide the greatest comprehensive coverage of the issues and stories that affect their viewers.

ii. National Broadcast Television

1. News

In addition to the number of Americans that rely on local broadcast news, 22 million Americans “tune-in” each day to watch the national nightly news programming on the three major networks. Although I do not anticipate that this rulemaking will have the large-scale effect of shutting down any of the three larger networks, it may make access to all three in markets throughout the country obsolete. This would not only have a negative impact on the viewers because of decreased access to information via the news programming but other programming as well.

2. Entertainment

In 2010, 98 of the top 100 television shows aired on free over-the-air broadcast television. Although policymakers may think entertainment via free over-the-air broadcast waves is insignificant, I believe that the Commission and policymakers must truly consider this factor and make it a priority in its review.

Four million Americans between 2010 and 2011 dropped pay services and became part of the public that only watches free over-the-air broadcast television. Since that statistic has been reported, the number has only risen. When asked why these people are leaving their pay services, 71% say that the cost has driven them to drop the bill, while the remaining 29% report that they do not see the value in pay services.

Why I find these statistics so important is because before television, the middle and working classes of America did not have such a thing as a “little luxury” of entertainment. They

⁶ Federal Communications Commission. Expanding the Economic and Innovative Opportunities of Spectrum Through Incentive Auctions. [Notice of Proposed Rulemaking]. October, 2012.

⁷ Id.

worked long hours, ate poor meals, went back to their small unkempt homes, slept, and did it all over again for the benefit of companies. Then, in the mid-20th century, Americans got a taste of what the rich had been experiencing through Broadway and cinema – entertainment. And while there has undoubtedly been a decline in the welfare of the American middle class in the past decade, I do not believe only big mobile corporations or broadcast rights holders should have the right to relinquish one of the only little luxuries our dwindling middle class has left.

Some may ask why I have put such a great emphasis on the middle class in this discussion, and that is because first, there are special programs made available to the poorest members of our nation to access pay television services like cable and internet which the middle class are ineligible; and second, the Act which gives the FCC the authority to authorize incentive auctions is aimed at getting the middle class back to work. While I agree with getting Americans back to work, weakening an industry that gives the middle class a bit of reprieve from that reality should also be protected to promote welfare amongst the middle class.

e. Public Safety

In addition to providing free over-the-air daily news programming during times of crisis, the local broadcasters serve a unique function in times of national and natural disaster. As the Commission considers the future of broadcasting through incentive auctions, I believe it is necessary that the Commission consider the role broadcast networks play in providing around-the-clock coverage in the wake of disaster. For instance, after the September 11th attacks, it was free over-the-air broadcast stations that provided full coverage of the latest developments as information was released to the public. Most recently, before-during-and after- Hurricane Sandy hit New York and the entire Northeast Corridor, it was broadcast news coverage that provided the local public information about weather developments, storm paths, evacuation arrangements, and safety measures that were necessary for preparedness.

f. Rural Areas

The National Broadband Plan⁸ has introduced initiatives that help connect all of America. Specifically, the FCC has introduced a rural broadband plan which pays special attention to the connectivity of American rural areas. I believe that these programs have had success in educating and getting more access to information for American farmers.

Growing up in a rural community, I experienced –first hand- the lack of access made available to rural areas. Not until 2009 did my rural dirt road have access to broadband internet and cable television. So, up until that time, the community relied mostly upon free over-the-air broadcast television. My concern is that other rural areas throughout the country still do not have access to pay service television, and the relinquishment of broadcast rights in these rural areas will weaken rural American's access to information.

⁸ Supra note 2.

From my personal experience, the plans that have focused on telecommunications development in rural areas has had a positive impact, yet, I do not want to see a weakening in the amount of information that is accessible to these communities to a decreased number of broadcast license holders in rural areas.

IV. Comments on Improving and Ensuring Public Interest during Incentive Auctions

a. Transparency

I believe the relinquishment of broadcast rights must be completely voluntary. In order to ensure a truly voluntary incentive auction, I believe the FCC should make this process completely transparent. To be completely transparent, the agency should provide the public with information about which spectrum bands are in the greatest demand, which geographic regions would benefit most from the auction and repacking and analysis of the current usage of such bands.

I recognize that the FCC has its “hands tied” with regard to how much information they are able to provide to the public due to the limitations placed on the agency by the Spectrum Act;⁹ however, I believe the agency must act as liberally as possible to expose as much information as legally possible regarding incentive auctions to induce public trust and compliant participation during the process.

I also believe that all ex parte communications with all stakeholders should be released to the public - and made easily accessible. Although reporting ex parte communications is already common practice, I believe it is the responsibility of the agency to ensure that the public is provided with a detailed accurate report of what information and communication is being exchanged during these meetings. During the auction process, the Commission must expose to the public all relinquishments, all forms related to such relinquishments and all bids during the forward auction process, and all reporting plans. By providing the public with a true reflection of the auction proceedings, the public will be ensured that there has been compliance with the final rule on this matter and ensure public faith in this revolutionary unprecedented procedure which may be concerning for the public because of all of its unknowns.

b. Application Requirements

In response Section 247 of the notice of proposed rulemaking, specifically, in providing transparency, the agency has requested comment on what information should be provided in the ownership section of the reverse auction application. In addition to the requirements suggested

⁹ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96 , 125 Stat. 156 (2012) (Spectrum Act).

in the Notice of Proposed Rulemaking¹⁰, I suggest that the Commission require applicants to provide a two year program history log. I believe this record is important to analyze when determining whether the relinquishment of a station's rights will best suit the public interest. I also believe this information will be helpful to consider if any stations face local backlash for voluntary relinquishment of rights.

Although I recognize that the FCC has been lawfully delegated the power to promulgate regulations and oversee these incentive auctions, I believe complete transparency in applications and increased information is absolutely necessary in an unprecedented large scale reallocation as proposed. As mentioned in my introduction, it must be reemphasized that this proposed rulemaking requires policymakers to consider market demands in tandem with public interest.

At this point, the public is vaguely informed of how this proposed rule will affect them because the Commission has not provided, nor can it offer any clarity of which geographic areas, or which specific broadcast licensees will be relinquishing their rights. For that reason, I believe it is absolutely imperative that information be provided to the public so they are able to voice their concerns as the incentive auction process takes place.

In response to Section 248 of the notice of proposed rulemaking, I urge the Commission to require applicants to provide their channel sharing agreement with their pre-auction application. Proof of such arguments that may affect the auction process will provide greater assurance in the repacking and forward auction process, which is essential for success of the incentive auctions process and achieving the goals of the agency through this process.

In support of the public policy concerns that I have expressed previously, the Commission should require applicants to give full disclosure during the process, as long as confidential Commission information is not unnecessarily exposed.

In response to section 264, it is good policy to prohibit communication in the reverse auction process, but I criticize the lack of ability to enforce such a provision without internal "watchdogs" which I do not believe is able to be realized. I commend the policymakers for proposing, such a protective provision for the public, but I do not believe this to be an attainable goal.

¹⁰ Agency requests that the applicant provide the following information when submitting the pre-auction application request: (1) applicant's name and contact information; (2) the licenses and the associated spectrum usage rights that may be offered in the reverse auction; (3) any additional information required to assess the spectrum usage right available for the reverse auctions; (4) the identity of the individuals authorized to bid on the applicant's behalf; (5) the applicant's ownership information as set forth in section 1.2112(a) of our rules, and for NCE stations, information regarding the licensee's governing boards and any educational institution or government entity with a controlling interest; (6) for a channel sharing applicant, the channel parties intend to share and any necessary information regarding the channel sharing agreement; (7) an exhibit identifying any bidding agreement, bidding consortia, or other such agreements to which the applicant is a party, if permitted; (8) any current delinquencies or any non-tax debt owed to any federal agency; (9) any additional information that the Commission may require.

V. Suggestions

a. Pre-Auction Survey

As has previously been discussed in this comment, there are certain geographic areas which are in the greatest need for spectrum reallocation. In addition, it has also been aforementioned that there is spectrum that is not being utilized to its full potential. While at the same time, I have taken the position that the Commission has a duty to protect broadband spectrum that may be relinquished which may be in opposition to the public good including the spectrum allocated for education, public local television, rural areas, and local broadcast television that provides news and entertainment.

To avoid a weakening in the broadcast industry by purging these sensitive broadcasting licensees of their rights, it is necessary for the Commission to host a pre-auction survey which considers which geographic areas need the spectrum, then consider which current broadcast licensees are not using the spectrum to its fullest potential. Finally, the survey would have a report component which provides a collective report of all broadcast licensees that are not utilizing their license to its fullest potential. These licensees that are not utilizing the spectrum should be targeted as potential participants in the reverse auction, yet the Commission should consider the role of the holders that are sensitive to relinquishment due to funding ,yet serve an important public purpose, and consider these factors in targeting these licensees that are not utilizing the spectrum.

b. Targeting License Holders That Do Not Aptly Utilize Spectrum

This pre-auction survey would first require each mobile provider to submit a true factual report of where they see a true spectrum crunch looming. At the same time, the Commission should be surveying each broadcast licensee to gage the amount of interest in relinquishing their rights – whether it be partially or fully. Then, upon considering both sets of data, the Commission will be able to consider the policy implications of all or some of those licensees relinquishing their rights. If there is lack of rights holders that are interested in voluntarily relinquishing their rights, the Commission could start a campaign to convince the holders who are utilizing rights to concede to the incentive auctions or put efforts toward a new system that would have the same effect as the envisioned incentive auctions of repurposing spectrum for mobile broadband use.

VI. Conclusion

In conclusion, I would like to again thank you for considering my position on the Federal Communication Commission's "Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions" proposed rulemaking. I encourage you to consider the implications which auctions may have on the 30 million members of the Americans viewing public who solely rely on traditional broadcast television for local news, entertainment, public

safety warnings, the more than 30,000 broadcast stations operating and serving the American public across the country, and the more than 211,000 people employed by the broadcast industry when implementing this rulemaking. I am not discouraging the approval of such rulemaking. To the contrary, I, like the FCC, see a benefit to broadcasters, as well as the telecommunications industry, in general, for the proposed rulemaking to go forward. However, I warn against the depletion of an industry which supports the American public.

Sincerely,

Anonymous U.S. Citizen